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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:) Examiner: **Jean D. Janvier**
Pugliese, III, et al.) Group Art Unit: **3622**
Serial No: **09/994,805**) Attorney Docket No.: **S255 1020.1**
Filed: **November 28, 2001**)
For: **System and Method for Displaying and Selling Goods and Services in a Retail Environment Employing Electronic Shopper Aids**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Action mailed April 6, 2004, Applicants provide the following:

The Examiner has determined that the claims in the present application are drawn to three distinct inventions and has requested restriction to one of the inventions as follows:

- I. Claims 1 – 5, drawn to a method for accessing a network by a customer, selecting items to view, for dynamically displaying images of items in response to a customer's request and for assigning a token to said customer to make a purchase;
- II. Claims 6 – 10 and 11 – 12, drawn to a method for searching merchant inventories for items to meet a customer's specifications, notifying a customer of the availability of items and for compensating a referring merchant; and
- III. Claims 13 – 20, drawn to a system comprising an entry portal, a session management module communicating with said entry portal, and a customer

database accessible by said session management module for storing customer registration and transaction history.

In response to the restriction requirement, Applicants hereby elect the invention of Group III with traverse. Applicants request reconsideration and withdrawal of the restriction requirement on the grounds that the restricted claims are closely related and should be considered together in the same application for the reasons provided below.

The Examiner stated that inventions I and III are related as combination and subcombination. The Examiner further stated that in the instant case, the combination as claimed does not require the particulars of the subcombination as claimed, because the subcombination has separate utility such as a system comprising an entry portal, a session management module communicating with said entry portal, and a customer database accessible by said session management module for storing customer registration and transaction history.

Before, comparing the groupings of claims made by the Examiner, the inventive concept is briefly described herein. The invention is directed to a process and system for live, interactive selling over a communications network such as the Internet. An audio and video session is established on the communications network. The invention provides the seller with a real time entry portal with audio and video communications to access and select products to dynamically display for live video viewing by the customer based on the customer's token, token purchase history and profile.

An entry portal is necessary for establishing and accessing an audio and video communications network (i.e., the Internet) to dynamically present images and video to the

customer for viewing. A unique aspect of all the pending claims is that a dynamic live shopping session must be active. Each claim addresses an aspect of a live, interactive selling session over a communications network. Aspects of the invention such as accessing a communications network, selecting items for display, and searching merchant inventories/databases for items that meet a customer's specification/query in a live, interactive session are performed via an entry portal with real time audio and video.

Regarding the Examiner's groupings of the claims, claim 1 recites in its first three steps: accessing a communications network by a customer; selecting items for viewing over said network; and dynamically displaying images of items in response to instructions from a customer. The system as claimed in claim 13 recites in its first three elements: an entry portal to said communications network; a communications session management module communicating with said entry portal; and a customer database accessible by said session management module for storing customer registration and transaction history. The entry portal component of claim 13 enables the accessing of a communications network by a customer recited in claim 1. The communications session management module of claim 13 enables the step of selecting items for viewing over said network recited in claim 1. The customer database component recited in claim 13 stores customer transaction history. Although not explicitly recited in claim 1, storing a transaction history is inherent in the method, particularly with respect to dependent claim 5, which recites the further step of updating a customer profile from token transactions. Therefore, there is a close relation between the method for selling recited in claims 1 - 5, and the system for selling as recited in claims 13 - 20.

Similarly, there is a close relation between system claim 13 and method claims 6 – 10 and 11 – 12. Regarding claim 6, the step of accessing a communications network is provided by the entry portal to the communications network recited in claim 13. The step of searching merchant inventories to meet a customer's specification is inherent in the system of claim 13, which recites a video module for viewing merchandise over said portal communicating with said communications network. Likewise, the steps of notifying a customer of the availability of items, recording sales of items, and crediting a referring merchant are steps enabled by the purchase module and order fulfillment module components recited in claim 13.

Regarding claim 11, the step of accessing a communications network is provided by the entry portal component recited in claim 13. The step of querying to determine shopping objectives can include creating a customer's shopping profile, which would be provided by the customer database for storing customer registration and transaction history recited in claim 13. The step of searching one or more merchant databases for merchandise matches in response to said query is inherent in the system recited in claim 13. The step of displaying selected merchandise in response to said query is provided by the video module for viewing merchandise over said portal recited in claim 13. The step of communicating selected merchandise information over the communications network is provided by the communication session management module and video module recited in claim 13. Therefore, there is a close relation between the system claims recited in claims 13 – 20, and the method claims recited in steps 6 – 10 and 11 – 12.

In view of the above, Applicants respectfully request that the Examiner withdraw his restriction requirement for the pending claims and consider all the pending claims together in this application.

10/6/04
Date

Respectfully submitted,



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